

<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE</p> <p style="text-align: center;">*****</p> <p style="text-align: center;">LAURIE ORTOLANO</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;">THE CITY OF NASHUA, NEW HAMPSHIRE, ET AL.,</p> <p style="text-align: center;">Defendants.</p> <p style="text-align: center;">*****</p> <p style="text-align: center;">DEPOSITION OF RAYMOND E. FEOLI</p> <p style="text-align: center;">Deposition taken by agreement of counsel via Zoom on Wednesday, April 10, 2024, commencing at 10:00 A.M.</p> <p>Court Reporter: Tina L. Hayes, RPR, NH LCR #80 (RSA 310-A:161-181)</p>	<p style="text-align: right;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 Representing the Defendants, Raymond Feoli and Inception Technologies, Inc.:</p> <p>3</p> <p>4 CORRIGAN LAW OFFICES 122 Chestnut Street Andover, MA 01810</p> <p>5 By: Brian T. Corrigan, Esquire (978)988-1544 corriganlaw@gmail.com</p> <p>7</p> <p style="text-align: center;">S T I P U L A T I O N S</p> <p>8</p> <p>9 It is agreed that the deposition shall be taken in the first instance in stenotype and when transcribed may be used for all purposes for which depositions are competent under the Federal Rules of Civil Procedure.</p> <p>11</p> <p>12 Notice, filing, caption and all other formalities are waived. All objections except as to form are reserved and may be taken in court at time of trial.</p> <p>14 It is further agreed that if the deposition is not signed within 30 days, the signature of the deponent is waived.</p> <p>16 I N D E X</p> <p>17 WITNESS:</p> <p>18 Raymond E. Feoli</p> <p>19 EXAMINATION: PAGE</p> <p>20 By Mr. Olson 5, 57</p> <p>21 By Mr. Cullen 55</p> <p>22 ERRATA SHEET 59</p> <p>23 CERTIFICATE OF REPORTER 60</p>
<p style="text-align: right;">2</p> <p>1 A P P E A R A N C E S</p> <p>2 Representing the Plaintiff:</p> <p>3 OLSON LAWYERS 31 Franklin Road Salisbury, NH 03268 By: Kurt S. Olson, Esquire (603)748-1960 kolson@mslaw.edu</p> <p>6</p> <p>7 Representing the Defendants, The City of Nashua, Michael Carignan, and Frank Lombardi:</p> <p>8</p> <p>9 CULLEN COLLIMORE SHIRLEY, PLLC 37 Technology Way, Suite 3W2 Nashua, NH 03060 By: Brian J.S. Cullen, Esquire (603)881-5500 bcullen@cullencollimore.com</p> <p>11</p> <p>12 Representing the Defendant, Kimberly Kleiner:</p> <p>13</p> <p>14 FRIEDMAN FEENEY, PLLC 95 North State Street, Suite 5 Concord, NH 03301 By: Dona Feeney, Esquire (603)783-5105 dfeeney@friedmanfeeney.com</p> <p>17</p> <p>18 Representing the Defendants, Steven Bolton and Celia Leonard:</p> <p>19 UPTON & HATFIELD, LLP 10 Centre Street Concord, NH 03301 By: Madeline K. Osbon, Esquire (603)224-7791 mosbon@uptonhatfield.com</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">4</p> <p>1 EXHIBITS FOR IDENTIFICATION:</p> <p>2 MARKED DESCRIPTION PAGE</p> <p>3 Exhibit 1 Purchase Order No. 158909 15</p> <p>4 Exhibit 2 Defendant Raymond Feoli, Inception Technologies President's Objections and Responses to Plaintiff Laurie Ortolano's Requests for Production of Documents</p> <p>7</p> <p>8 Exhibit 3 Defendant Raymond Feoli, Inception Technologies President's Objections and Responses to Plaintiff's First Set of Interrogatories</p> <p>9</p> <p>10 Exhibit 4 Affidavit of Plaintiff Laurie Ortolano 50</p> <p>11</p> <p>12 (Electronic Exhibits were provided to all parties.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

<p style="text-align: right;">33</p> <p>1 Q. Thank you.</p> <p>2 A. -- "believed her to be a City official</p> <p>3 based on her intimate knowledge of the City's</p> <p>4 business, the terms of Inception's contract, and the</p> <p>5 status of PO, billing and payments, as well as her</p> <p>6 statements."</p> <p>7 Q. Do you recall if that's what you told the</p> <p>8 detective at the time?</p> <p>9 A. I don't recall exactly, no.</p> <p>10 Q. Okay. I believe, in answer to an earlier</p> <p>11 question, you didn't mention all of those things.</p> <p>12 But we can look at the detective's report in a</p> <p>13 minute.</p> <p>14 A. Sure.</p> <p>15 Q. And skip ahead to No. 12. Tell me when</p> <p>16 you are ready, Ray, please.</p> <p>17 A. Yeah. (Perusing document.) Okay.</p> <p>18 (Perusing document.) Okay.</p> <p>19 (Perusing document.) Okay.</p> <p>20 Q. So in the middle of, actually, that begins</p> <p>21 with "Thinking Ms. Ortolano," would you read that.</p> <p>22 A. "Thinking Ms. Ortolano was a City</p> <p>23 official, I promptly returned the call."</p>	<p style="text-align: right;">35</p> <p>1 don't have access to those files. When can we get</p> <p>2 those files back?' I did not provide Ms. Ortolano</p> <p>3 access to the scanned documents."</p> <p>4 Q. Thank you.</p> <p>5 So I don't believe that you mentioned the</p> <p>6 quoted language here when you described that second</p> <p>7 phone call. Do you recall that?</p> <p>8 A. I am not sure what you are referring to.</p> <p>9 Q. So where you have in quotes down at the</p> <p>10 line -- first line from the bottom --</p> <p>11 A. Yeah.</p> <p>12 Q. -- "We don't have access to those files.</p> <p>13 When can we get those files back."</p> <p>14 As you sit here today, do you recall her</p> <p>15 saying that or asking those questions?</p> <p>16 A. Yeah. That -- she was concerned about</p> <p>17 documents that were being requested. And she made</p> <p>18 comment that, while we have those files in our --</p> <p>19 Inception's possession, that she didn't have access</p> <p>20 to those files.</p> <p>21 And I said to her that, you know, "You do.</p> <p>22 Because when we scan them and upload them into</p> <p>23 DocuWare, you can search and retrieve those files."</p>
<p style="text-align: right;">34</p> <p>1 Q. Okay. And just to clarify, when you</p> <p>2 received that voicemail message, was there anything</p> <p>3 in it that led you to believe that Ms. Ortolano was</p> <p>4 a City employee?</p> <p>5 A. Just like I said, she -- I have never had</p> <p>6 this situation come up where I have had a client of</p> <p>7 a customer call me looking for information. She</p> <p>8 mentioned Nashua. She mentioned the PO. I just</p> <p>9 concluded she was with the City.</p> <p>10 Q. Okay. So you are really sort of</p> <p>11 reinforcing your previous answer that, because it</p> <p>12 was so rare or maybe had never happened before, that</p> <p>13 you were assuming that she was a City employee;</p> <p>14 correct?</p> <p>15 A. In 28 years, it's never happened.</p> <p>16 Q. Okay. And if you go down to the bottom of</p> <p>17 your answer, beginning with "On or about February 4,</p> <p>18 2022," please read that.</p> <p>19 A. (As read) "On or about February 4, 2022,</p> <p>20 Ms. Ortolano called me again and left a voicemail.</p> <p>21 Once again, I promptly returned the call.</p> <p>22 Ms. Ortolano questioned me about public access to</p> <p>23 the documents, at one point stating/inquiring: 'We</p>	<p style="text-align: right;">36</p> <p>1 And that's, again, under the thought that she was</p> <p>2 with the company [sic]. And I mentioned that she</p> <p>3 could, you know, have Kim provide her log-in</p> <p>4 credentials to get access to those files if she were</p> <p>5 a City employee. She didn't say she wasn't. And</p> <p>6 she let it go, and that was it.</p> <p>7 Q. Okay. And the last line in your answer</p> <p>8 here where you say "I did not provide Ms. Ortolano</p> <p>9 access to the scanned documents," did she ever ask</p> <p>10 you for the scanned documents?</p> <p>11 A. She wanted to know when they could have</p> <p>12 access to them. She didn't specifically say</p> <p>13 "scanned documents." I said to her that, you know,</p> <p>14 "You could have access to those scanned documents if</p> <p>15 you got log-in credentials from Kim."</p> <p>16 As a company, we don't give out log-in</p> <p>17 credentials from -- we pick a point of contact</p> <p>18 within the organization who tells us, "Yes, this</p> <p>19 person can have access to those files." So I kind</p> <p>20 of was referring to the fact that, if she wanted to</p> <p>21 get access to those scanned documents, as an</p> <p>22 employee of the City, she could have requested</p> <p>23 log-in credentials.</p>

<p style="text-align: right;">37</p> <p>1 Q. Thank you.</p> <p>2 One more from this document and that's</p> <p>3 Interrogatory No. 14 starting here.</p> <p>4 A. (Perusing document.) Okay.</p> <p>5 (Perusing document.) Okay.</p> <p>6 Q. So before we scroll on through this one,</p> <p>7 Ray, at the bottom of the first paragraph here,</p> <p>8 would you read the sentence beginning with "She</p> <p>9 stated that she would."</p> <p>10 A. "She stated that she would make sure</p> <p>11 payment from the City would be expedited."</p> <p>12 Q. Okay. And I believe this is all</p> <p>13 repetitive of something you wrote before?</p> <p>14 A. Uh-huh.</p> <p>15 Q. But we now get to an email. Do you</p> <p>16 recognize this email?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And what is it?</p> <p>19 A. It's an email that I sent to my customer</p> <p>20 that was essentially summarizing what I determined</p> <p>21 to be a breach of my customer's information. My</p> <p>22 responsibility is to my customer and to keep their</p> <p>23 information confidential, regardless of the nature</p>	<p style="text-align: right;">39</p> <p>1 A. So I know what my thought process was</p> <p>2 around writing it, which was that I felt that I had</p> <p>3 violated our security protocols by disclosing</p> <p>4 customer information about -- you know, to somebody</p> <p>5 who wasn't with my customer.</p> <p>6 Q. Okay. Thank you.</p> <p>7 And the paragraph that begins on this page</p> <p>8 with "This past Friday," would you read that first</p> <p>9 sentence, please.</p> <p>10 A. "This past Friday I received a voicemail</p> <p>11 from Ms. Ortolano which I forwarded to Kim Kleiner</p> <p>12 after speaking with Ms. Ortolano and finding about</p> <p>13 this person from Kim."</p> <p>14 Q. Thank you.</p> <p>15 So you described that before, I believe;</p> <p>16 right? So after the second phone call with</p> <p>17 Ms. Ortolano, you communicated with Ms. Kleiner;</p> <p>18 correct?</p> <p>19 A. No. I believe that it was the third, not</p> <p>20 the second, because I didn't notify Kim about a</p> <p>21 voicemail from Ms. Ortolano. Now, I still had a</p> <p>22 copy of the voicemail in my email box and forwarded</p> <p>23 it to her after I found out that she wasn't with the</p>
<p style="text-align: right;">38</p> <p>1 of the information. So I felt that it had been</p> <p>2 breached and I needed to notify my customer the</p> <p>3 circumstances around that.</p> <p>4 Q. Do you recall whether you ever</p> <p>5 mentioned -- excuse me -- anything about a security</p> <p>6 breach in this email? I will let you read the whole</p> <p>7 thing before you answer, if you want to take a --</p> <p>8 A. No, I don't specifically recall saying</p> <p>9 "data breach" in there. But, essentially, for me,</p> <p>10 that's what it came down to.</p> <p>11 Q. Okay. And do you know whether notice of a</p> <p>12 security breach is required by the New Hampshire</p> <p>13 statute?</p> <p>14 A. I don't know that it's required. So I</p> <p>15 don't know if it's required by New Hampshire</p> <p>16 statute.</p> <p>17 Q. Okay. Would you like to read through this</p> <p>18 just to find out whether or not you did mention</p> <p>19 anything about a security breach, or are you</p> <p>20 confident that you didn't?</p> <p>21 A. No, I am not confident that I did or</p> <p>22 didn't.</p> <p>23 Q. Okay.</p>	<p style="text-align: right;">40</p> <p>1 City.</p> <p>2 Q. Okay. But will you agree with me that</p> <p>3 that first sentence indicates that you spoke --</p> <p>4 sorry -- you forwarded the voicemail to Kim Kleiner.</p> <p>5 And then it says that "finding out about this person</p> <p>6 from Kim." Does that mean that you found out from</p> <p>7 Kim that Ms. Ortolano was not a City employee?</p> <p>8 A. Yes. As I stated before, until that phone</p> <p>9 call with Kim identifying the employees that I</p> <p>10 thought were with the City -- or that I had</p> <p>11 communicated with the City, until that point in</p> <p>12 time, I that had no reason to believe that Laurie</p> <p>13 wasn't with the City.</p> <p>14 Q. Okay. And then if you don't mind reading</p> <p>15 that second sentence beginning with "I called her</p> <p>16 back"?</p> <p>17 A. "I called her back thinking she was with</p> <p>18 the City and we had just invoiced another batch."</p> <p>19 Q. So based on the first sentence, do you</p> <p>20 think that you already knew at that point that</p> <p>21 Ms. Ortolano was not with the City?</p> <p>22 A. No. I didn't know that she was not with</p> <p>23 the City until Kim said she wasn't with the City.</p>

<p style="text-align: right;">41</p> <p>1 Q. Okay. But I am just trying to get clear 2 here, because the first sentence shows that you 3 forwarded Kim Kleiner the voicemail; and then it 4 says "finding out about this person from Kim." Will 5 you agree that that suggests that Kim informed you 6 that Ms. Ortolano was not with the City? 7 A. I thought I already stated that. 8 Q. Right. But then your next sentence says 9 that you called her back thinking she was with the 10 City. 11 A. Yeah, I did. I called Kim -- not -- 12 the times she had called me -- those three times 13 she called me and left voicemails, I called her 14 back. 15 Q. Okay. 16 A. Maybe I didn't word it properly and 17 clearly, but that's essentially what happened. 18 Q. Okay. So it's your testimony today that 19 you called Ms. Ortolano back prior to the call with 20 Kim Kleiner; is that correct? 21 A. Correct. I did not -- I called 22 Ms. Ortolano back each time she left a message, 23 which was three times. After the third one, I got a</p>	<p style="text-align: right;">43</p> <p>1 regards to Laurie's statements about being with the 2 City, et cetera. 3 Q. And what sort of clarification did you 4 give him? 5 A. Same thing I told you, is that it wasn't 6 anything that she said. Like, she never came out 7 and said, "I am not" -- "I am with the City." It 8 was more that she had intimate knowledge about 9 things that, you know, in my experience, only 10 customers would have. I never had this happen in 11 28 years. And she never came out and said, "I am 12 not with the City," or, "I am" -- you know, "I need 13 this information for, you know, litigation 14 purposes," or whatever. She just asked questions 15 about specific, you know, POs and, you know, status 16 of the project, et cetera. 17 Q. Okay. So based on that answer, in your 18 conversation with Mr. Comeau, you gave him details 19 about your thoughts regarding Ms. Ortolano; correct? 20 A. I don't recall giving her [sic] any 21 thoughts other than that, you know, I didn't -- I 22 felt like she could have been more forthright about 23 who she was and -- and, you know, sort of what she</p>
<p style="text-align: right;">42</p> <p>1 call back, I think it was, within a couple of days 2 of speaking with Laurie Ortolano. And Kim asked me 3 those questions about who I had been talking to. I 4 identified the people I thought were with the City 5 that I had spoken to. And then that's the point 6 where Kim said, "Oh, no, she is not with the City," 7 and I said, "Oh, okay." So... 8 Q. Okay. Then at some point, I believe it 9 was, on February 11th -- but correct me if I am 10 wrong -- you received an email from Mr. Comeau from 11 the board of aldermen in Nashua? 12 A. I don't think I got an email. I think I 13 got a voicemail. 14 Q. Okay. 15 A. I could be wrong on that one, but -- 16 Q. Okay. So we can check if we need to. But 17 leaving that aside, you did receive some form of 18 communication from Mr. Comeau of the board of 19 aldermen; correct? 20 A. Yes. 21 Q. Okay. And do you recall the substance of 22 that conversation? 23 A. Yes. He wanted to clarify my email in</p>	<p style="text-align: right;">44</p> <p>1 was asking for. Because, you know, to my knowledge, 2 she was with the City and I was giving information 3 about that. So... 4 Q. Okay. But you didn't inform Mr. Comeau 5 that there may have been a data breach; right? 6 A. Yeah. Actually -- well, I had already 7 sent the -- the email, which, like I said, I 8 didn't -- I don't know if I specifically used the 9 term "data breach," but I did disclose customer 10 information. 11 So, you know, I may not have used the 12 proper term, "data breach," in there. But when I 13 let go private information to somebody who is not 14 authorized to have it, I feel an obligation to let 15 my customer know that I have done that. And that's 16 essentially what this email is. 17 Q. Okay. 18 A. And -- 19 Q. So -- go ahead. Sorry. 20 A. The email was purely a notification to my 21 customer. I had no understanding that it was going 22 to be read into public forum. It was something that 23 I was just sending to let them know this is what</p>

<p style="text-align: right;">53</p> <p>1 Q. Okay. So you didn't think it was</p> <p>2 advisable to let him know that there may have been a</p> <p>3 data breach?</p> <p>4 A. I thought I already notified my customer.</p> <p>5 Q. Okay.</p> <p>6 A. So, to me, the issue was dead. It's not</p> <p>7 like anything I gave was PII. But as I stated</p> <p>8 earlier, my obligation is to my customer and keeping</p> <p>9 their information, without written permission from</p> <p>10 them, private. So it may not have been a crime by</p> <p>11 any means because, you know, it's not personal</p> <p>12 information. But it's out of my relationship with</p> <p>13 my customers to protect their data. And that is why</p> <p>14 I say I feel like it was a breach and that I let</p> <p>15 that information out to somebody who I thought was</p> <p>16 one of my customers.</p> <p>17 Q. Okay. So you would agree, at least in</p> <p>18 terms of your policy and the procedures of companies</p> <p>19 like yours that do document storage, it's your</p> <p>20 obligation to maintain the confidentiality of all of</p> <p>21 their documents, not just PII; correct?</p> <p>22 A. Correct. Yeah.</p> <p>23 Q. Okay. And yet, just to repeat, you didn't</p>	<p style="text-align: right;">55</p> <p>1 MR. CULLEN: You can get up and refill</p> <p>2 your drink or hit the boys room or whatever you</p> <p>3 need.</p> <p>4 If that's okay with everyone, we'll just</p> <p>5 reconvene in five minutes?</p> <p>6 MR. OLSON: Sure.</p> <p>7 THE WITNESS: Sounds good.</p> <p>8 (A break was taken.)</p> <p>9 EXAMINATION</p> <p>10 BY MR. CULLEN:</p> <p>11 Q. Mr. Feoli, I just want to really wrap up a</p> <p>12 couple of things. My name is Brian Cullen. I am</p> <p>13 here on behalf of the City of Nashua and the two</p> <p>14 police officers who are named in the suit.</p> <p>15 I just wanted to confirm or go over it.</p> <p>16 There were a number of things that Ms. Ortolano said</p> <p>17 to you that led you to conclude that she was an</p> <p>18 employee of the City of Nashua; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And that included, first and</p> <p>21 foremost, that the first thing she said on the</p> <p>22 voicemail was, "This is Laurie Ortolano from</p> <p>23 Nashua"; right?</p>
<p style="text-align: right;">54</p> <p>1 mention that there may have been a data breach to</p> <p>2 either Mr. Comeau; the aldermen, in general; or</p> <p>3 Sergeant Goodwin?</p> <p>4 A. I don't know that I used the term "data</p> <p>5 breach" in any of those conversations specifically.</p> <p>6 Like I said, I sent the email because I felt it was</p> <p>7 a data breach, you know, and I needed to report it</p> <p>8 to my customer.</p> <p>9 MR. OLSON: Okay. Thank you, Mr. Feoli.</p> <p>10 That is all I have for you. I don't know if</p> <p>11 anybody has any questions.</p> <p>12 MR. CORRIGAN: No. I am good.</p> <p>13 (Reporter clarification.)</p> <p>14 MR. CORRIGAN: That's me, Attorney</p> <p>15 Corrigan, Mr. Feoli's counsel.</p> <p>16 MR. CULLEN: I would like just to take</p> <p>17 maybe five minutes, Kurt, to go over my notes.</p> <p>18 And if that's okay, Mr. Feoli, I am sorry</p> <p>19 to put you on pause for a second, but I would</p> <p>20 just like to take five minutes to check to see</p> <p>21 if there's anything I want to follow up on</p> <p>22 before we let you go.</p> <p>23 THE WITNESS: Absolutely.</p>	<p style="text-align: right;">56</p> <p>1 A. Yeah. She didn't say "City of Nashua,"</p> <p>2 but yes.</p> <p>3 Q. And then, in addition, she told you that</p> <p>4 she could expedite the payment on your invoice;</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And that was one of the things you relied</p> <p>8 on in concluding that she was an employee of the</p> <p>9 City?</p> <p>10 A. Yeah. It was a summation of everything,</p> <p>11 the knowledge of all of the orders, the invoices,</p> <p>12 the amounts, and what was left on the PO. And</p> <p>13 that's at the point where I corrected her and said,</p> <p>14 well, that accurate -- that would be accurate, with</p> <p>15 the exception of that we were in the process of</p> <p>16 billing the next batch. And then that's where she</p> <p>17 interjected that, well, she would expedite payment.</p> <p>18 Q. And has any noncustomer ever conveyed to</p> <p>19 you previously that they could assist with getting a</p> <p>20 payment to you by your customer expedited?</p> <p>21 A. No. I have never had -- I call her a</p> <p>22 customer of the City. I have never had a customer</p> <p>23 of a customer call me ever.</p>